



U.S. Department of Justice

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May 18, 2025

By ECF and E-mail

The Honorable Ann M. Donnelly
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Svetlana Dali
Criminal Docket No. 25-14 (AMD)

Dear Judge Donnelly:

The government respectfully submits this letter in advance of the trial scheduled to begin in the above-mentioned case on May 20, 2025 to move in limine for the admission of one document as a business record of Delta Air Lines, Inc. (“Delta”). In particular, the government intends to admit the flight manifest for Delta Flight 264 as a business record under Federal Rule of Evidence 803(6)(D). The government has previously provided this record to the defendant with a certification of authenticity and with notice that we intend to introduce it as an exhibit at trial. The government understands that the defendant does not object to this motion.

I. Applicable Law

The Supreme Court has held that admitting business records that have been authenticated by affidavit or certificate does not violate a defendant’s right to confrontation. See Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009). The Court has explained that “[b]usiness and public records are generally admissible absent confrontation . . . because—having been created for the administration of an entity’s affairs and not for the purpose of establishing or proving some fact at trial—they are not testimonial.” Id. at 324.

Relying on Melendez-Diaz, the Second Circuit and at least five other circuits have concluded that certifications authenticating records are not testimonial. See, e.g., United States v. Qualls, 613 F. App’x 25, 28 (2d Cir. 2015); United States v. Johnson, 688 F.3d 494, 504-05 (8th Cir. 2012); United States v. Yeley-Davis, 632 F.3d 673, 680-81 (10th Cir. 2011); United States v. Morgan, 505 F.3d 332, 339 (5th Cir. 2007); United States v. Ellis, 460 F.3d 920 (7th Cir. 2006); United States v. Weiland, 420 F.3d 1062, 1077 (9th Cir. 2005). As the Seventh Circuit explained in Ellis, such certifications are “nothing more than the custodian of records . . .

